

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

WENDELL TERRY NELSON, JR., et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CIV-10-808-C
)	
FRED FIGUEROA, et al.,)	
)	
Defendants)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff brought the present action pursuant to 42 U.S.C. § 1983. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this action was referred to United States Magistrate Judge Bana Roberts. Judge Roberts entered a Report and Recommendation on October 8, 2010, to which Plaintiff timely objected.

Judge Roberts recommended dismissal of Plaintiff's case for failure to make a timely installment payment on the filing fee. Judge Roberts accurately set out the facts and law surrounding Plaintiff's failure to timely pay and there is no purpose to be served in repeating them yet again. As Judge Roberts noted, Plaintiff has been granted additional time to make the required payment yet has failed to meet that extended deadline. In his Objection, Plaintiff asserted that he would make the payment by a certain date. That date has long since passed. In a pleading dated September 30, but filed on November 4, Plaintiff requested a stay until

“next pay,” referring to pay dates in September and October. It is now the end of November and Plaintiff has not submitted any payment or explanation; therefore, dismissal is warranted.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 10), and for the reasons announced therein, DISMISSES Plaintiff’s Complaint without prejudice. All pending motions are stricken. A judgment will enter accordingly.

IT IS SO ORDERED this 30th day of November, 2010.



ROBIN J. CAUTHRON
United States District Judge